

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS-----X
PEDRO COMAS,

Index No.

Plaintiff,

VERIFIED COMPLAINT

- against -

JURY TRIAL DEMANDEDCITY OF NEW YORK and NEW YORK CITY
DEPARTMENT OF EDUCATION,Defendants.
-----X

Plaintiff Pedro Comas by his attorneys Hach Rose Schirripa & Cheverie LLP, complaining of the respective Defendants, respectfully alleges, upon information and belief and states as follows:

1. This is a revival action brought pursuant to C.P.L.R. § 214-g, the New York Child Victims Act (the "CVA"). The CVA opened a historic one-year one-time window for victims and survivors of childhood sexual abuse in the State of New York to pursue lapsed claims. Prior to the passage of the CVA, each of Plaintiff's claims were time barred the day he turned 22 years old.

2. Pedro Comas attended John Bowne High School (the "High School") from 1988 through 1991, where he was enrolled in honors classes and was involved in numerous extracurricular activities. The High School is a public school operated by New York City Department of Education under the oversight of the City of New York.

3. When he was a minor, Plaintiff was sexually abused by Gregory Tumminio. Mr. Tumminio was employed by the City of New York and the Department of Education as a teacher. Tumminio committed his heinous acts while in the course of his employment at John Bowne High

School. Plaintiff's life was forever changed as a result of the negligent conduct Defendants described herein.

4. As a result of the passage of the CVA, Plaintiff can now pursue restorative justice. Plaintiff brings suit to vindicate his rights.

PARTIES

5. Pedro Comas ("Plaintiff") is an individual residing in New York County, New York.

6. At all times relevant, and to the present day, Defendant City of New York (the "City") was and is a municipal corporation which maintains its principal place of business at 100 Church Street, New York, NY 10007, in New York County.

7. At all times relevant, and to the present day, Defendant New York City Department of Education ("Department of Education") was and is a municipal corporation and local educational agency which maintains its principal place of business at 52 Chambers Street, New York, NY 10007, in New York County.

8. At all times relevant, and to the present day, the City owns, operates, maintains and controls John Bowne High School (the "High School" or the "Premises") located at 63-25 Main Street, Flushing, NY 11367, in Queens County. At the time of Plaintiff's attendance, he was a resident of Queens.

9. The City and the Department of Education are collectively referred to hereinafter as "Defendants."

10. Gregory Tumminio ("Tumminio" or "Plaintiff's abuser") is not a party to this action. However, Tumminio is the individual who committed the acts described herein which give rise to Plaintiff's allegations.

11. At all times relevant hereto, Tumminio was employed as a teacher by the Defendants on the Premises.

12. At all times relevant hereto, Tumminio was an agent of the Defendants.

JURISDICTION AND VENUE

13. This Court has personal jurisdiction over the claims asserted herein pursuant to C.P.L.R. §§ 301 and 302, in that the one or more Defendants transact business within the State of New York.

14. This Court has jurisdiction over this action because the amount of damages Plaintiff seeks exceed the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

15. Venue for this action is proper in the County of Queens pursuant to C.P.L.R. §503 in that Defendants transact business within the County of Queens and the majority of the acts which give rise to Plaintiff's allegations occurred within the County.

FACTS COMMON TO ALL CAUSES OF ACTION

16. At all times relevant, and to the present day, the City was and is a municipal corporation organized and existing under and by virtue of the State of New York.

17. At all times relevant, and to the present day, Department of Education was and is a municipal corporation organized and existing under and by virtue of the State of New York.

18. At all times relevant, and to the present day, the City owned the Department of Education.

19. At all times relevant, and to the present day, the City, its agents, servants and/or employees operated the Department of Education.

20. At all times relevant, and to the present day, the City, its agents, servants and/or employees managed the Department of Education.

21. At all times relevant, and to the present day, the City, its agents, servants and/or employees maintained the Department of Education.

22. At all times relevant, and to the present day, the City, its agents, servants and/or employees controlled the Department of Education.

23. At all times relevant, and to the present day, the City, its agents, servants and/or employees supervised the Department of Education.

24. At all times relevant, and to the present day, the City directed the operations of the Department of Education.

25. At all times relevant, and to the present day, the City controlled the operations of the Department of Education.

26. At all times relevant, and to the present day, the Department of Education was an agency of the City.

27. At all times relevant, and to the present day, the City through the Department of Education operates a Public School District providing education services for the children of New York City and the surrounding boroughs.

28. At all times relevant, and to the present day, John Bowne High School was and is a public school within the City.

29. At all times relevant, and to the present day, Defendants, owned John Bowne High School.

30. At all times relevant, and to the present day, Defendants, its agents, servants and or employees, operated John Bowne High School, its departments, functions, programs and activities.

31. At all times relevant, and to the present day, Defendants, its agents, servants and or employees, controlled, supervised, managed, and directed John Bowne High School, its departments, functions, programs and activities.

NOTICE OF CLAIM

32. Because Defendants are municipalities, Plaintiff would have been required to file and serve a "Notice of Claim" upon Defendants.

33. However, the CVA has extinguished that requirement and Plaintiff's failure to file and serve a Notice of Claim does not have any effect on his claim.

Plaintiff meets Tumminio and Tumminio Manipulates Plaintiff into Trusting Him

34. In or around August 1988, Plaintiff entered the tenth (10th) grade at John Bowne High School. Prior to Plaintiff's enrollment in the High School, Plaintiff was enrolled in an accelerated curriculum program in Elizabeth, New Jersey's school district.

35. In or around the spring of 1989, Plaintiff was approached by Tumminio who asked him to join the school newspaper.

36. Upon information and belief, Tumminio was told by Plaintiff's English teacher that he was a good writer.

37. In or around the fall of 1989, Plaintiff joined the school newspaper, as suggested by Tumminio. Plaintiff was given a column entitled "Sports Shorts" and would write articles which discussed the school's various sports teams.

38. In or around the spring of 1990, Tumminio successfully urged the school administration to make "Newspaper" an official elective class that granted school credit.

39. Plaintiff enrolled in this class, which was scheduled for ninth (9th) period, the last class period of the school day.

40. While enrolled Plaintiff wrote a positive review of the play "The Grapes of Wrath" and expressed his enjoyment at seeing such play to Tumminio. Consequentially Tumminio invited Plaintiff to have dinner with him, his wife and daughter and watch "Les Misérables."

41. In or around 1990, Tumminio announced that Plaintiff would be the editor of the newspaper.

42. Plaintiff was known to his fellow students as "Tumminio's protégé."

43. Tumminio would encourage Plaintiff and compliment him on his intelligence. Around this time, Tumminio encouraged Plaintiff to devote more time to the newspaper and ultimately convinced Plaintiff to drop most of his other extra-curricular activities.

44. Throughout Plaintiff's junior year, or during eleventh (11th) grade, Tumminio would take Plaintiff off campus during his lunch period and treat him to meals at a local restaurant; such acts were acknowledged but ignored by other employees of the High School.

45. Additionally, Tumminio would prevent Plaintiff from performing required services for the college office or social studies department and would instead drag Plaintiff into empty classrooms and opine on Plaintiff's future plans, the colleges he considered applying to, and on life issues.

46. Upon information and belief, other employees at the High School, were aware that Plaintiff was not performing his services for other departments and that Tumminio was pressuring Plaintiff to spend time with him in empty classrooms.

47. During his time in these classrooms, Tumminio would ask the Plaintiff personal questions about his family, whether he had a girlfriend, and if he was sexually active.

48. During these “counseling sessions” Tumminio would hug the Plaintiff, rub and pat his back and give him neck and shoulder massages.

49. In the summer of 1990, Tumminio contacted Plaintiff, informed him that he and his family had traveled to Europe and that he purchased some gifts for Plaintiff. Tumminio invited Plaintiff for lunch, picked him up at his home and brought him to the same restaurant as he did during the Plaintiff’s lunch periods. Tumminio then gifted Plaintiff a few t-shirts and a replica Lewis chess bishop, which he had purchased during his trip.

50. Tumminio escalated his grooming behaviors by exerting control of Plaintiff within the High School.

51. For example, during Plaintiff’s senior year, Plaintiff was enrolled in a health class. Without Plaintiff’s consent or knowledge, Tumminio had Plaintiff reassigned to another health class because he believed Plaintiff’s former teacher would not treat the Plaintiff fairly.

52. During Plaintiff’s senior year and his considering of college applications, Tumminio convinced Plaintiff that he should not apply to Williams College, which is located outside of New York City, and that he should instead apply to New York University, Tumminio’s alma mater.

53. Tumminio assured Plaintiff that he would write Plaintiff a very good recommendation letter and see to it that Plaintiff was able to take advantage of all the cultural offerings that a school in New York City had to offer.

54. In or around Plaintiff's senior year, Plaintiff began dating a fellow student. When Tumminio became aware of this relationship, he was not happy. Indeed, Tumminio scolded Plaintiff about being distracted by a fling which would not lead anywhere and warned Plaintiff that his continuing to date his fellow student would be detrimental.

55. In the fall of 1990, Plaintiff applied to New York University, against the advice of his college advisor and pursuant to the request of Tumminio. Tumminio wrote a strong recommendation letter for the Plaintiff and Plaintiff was accepted.

56. In or around the fall of 1990, Tumminio instituted a "regular night out" with Plaintiff. Tumminio would pick Plaintiff up at his home, take him to dinner, take him to an event and bring him back to his home.

Tumminio Sexually Assaults Plaintiff

57. During the fall of 1990, Plaintiff was running up against a deadline to complete layouts for the newspaper. As the deadline approached, Tumminio suggested that Plaintiff go to Tumminio's home to finish such layouts. Later that day, Plaintiff was a passenger in Tumminio's vehicle with two other teachers from the High School and Tumminio drove Plaintiff to his home.

58. Upon information and belief, these other teachers never questioned Tumminio's relationship with Plaintiff.

59. While at Tumminio's home, Plaintiff had dinner with Tumminio, his wife and daughter. After dinner, Tumminio's wife and daughter left the home.

60. Tumminio asked Plaintiff to go into the living room to listen to music, at which time Tumminio told the Plaintiff to go upstairs, go to the guest bedroom, take off all his clothes and lay down on the guest bed.

61. Plaintiff refused and asked Tumminio to take him home. Tumminio informed the Plaintiff that he was not joking and advised the Plaintiff to follow his instructions or Tumminio would not be taking him home that evening.

62. Eventually, Plaintiff complied with Tumminio's demands.

63. Tumminio followed the Plaintiff upstairs, watched him undress and then Tumminio forced Plaintiff to masturbate in front of him. Afterward, Tumminio drove a confused and scared Plaintiff home.

64. Following this encounter, Plaintiff advised Tumminio that if Tumminio insisted they engage in sexual relations to remain friends, then he did not wish to continue their friendship. Tumminio in turn advised Plaintiff that if they did not continue their relationship, including the sexual component, Plaintiff could no longer be the newspaper editor. This conversation took place at the High School.

65. Plaintiff then began avoiding Tumminio while he was at school.

66. However Tumminio would not allow Plaintiff to avoid him. He entered one of Plaintiff's other classes and removed him from class. At this time, Tumminio reminded the Plaintiff that if he no longer agreed to engage in friendship and sexual activities with Tumminio, then Plaintiff could not be newspaper editor.

67. Following this conversation, Tumminio gave Plaintiff several hundreds of dollars in cash, advised Plaintiff that the money was from a stipend for newspaper, and told Plaintiff never to tell anyone where he got the money from.

68. Tumminio continued to take the Plaintiff to events on Tuesday nights.

69. In or around the winter of Plaintiff's senior year, Tumminio told Plaintiff to skip school and that he would call-out sick from work. Tumminio invited the Plaintiff to his home. Once there, Tumminio brought the Plaintiff to his bedroom and told him to undress.

70. Tumminio undressed and approached Plaintiff on the bed. Plaintiff told Tumminio he did not want to engage in this activity to which Tumminio threatened Plaintiff about removing him as editor and barked at Plaintiff that he did not have a choice.

71. Tumminio then forcefully placed his mouth on Plaintiff's penis and masturbated him. Thereafter, Tumminio forced his erect penis into Plaintiff's mouth and forced Plaintiff to masturbate him.

72. Thereafter, nearly every time Tumminio saw Plaintiff he asked him for oral sex. Plaintiff avoided Tumminio as much as possible.

73. However, every few weeks Tumminio would force the Plaintiff to skip school and come to his home. Tumminio continued to provide Plaintiff with cash which he asserted was from a stipend he received for being the newspaper advisor.

74. Tumminio's demands quickly escalated and he attempted to force Plaintiff to engage in anal sex. Plaintiff refused. However Tumminio would not take no for an answer, and forcefully penetrated Plaintiff's anus.

75. Plaintiff began trying to avoid Tumminio and refused to go back to his home. As a result, Tumminio decided to prey upon Plaintiff on the Premises more openly.

76. In or around Spring of 1991, Tumminio began regularly removing Plaintiff from his other classes.

77. At no time did Plaintiff's other teachers, nor anyone who worked for the High School's administration, question Tumminio's actions.

78. One day that Spring, Tumminio removed Plaintiff from his AP French class, took him to the media room, which is only accessible through the school's library, and began to sexually molest Plaintiff by rubbing Plaintiff's penis.

79. Again, at no time did Plaintiff's other teachers, nor anyone who worked for the High School's administration, question Tumminio's actions.

80. When the Plaintiff urged Tumminio to stop and advised Tumminio that he did not want to be involved in this type of relationship, Tumminio threatened Plaintiff by telling him that Tumminio would ensure that Plaintiff did not graduate. Tumminio advised the Plaintiff that he was aware that the Plaintiff's grades were dropping and if Plaintiff continued to please him that he would see to it that Plaintiff received passing grades.

81. When Plaintiff continued to try to refuse Tumminio's advances, Tumminio threatened to rescind his recommendation of Plaintiff to New York University. Plaintiff advised Tumminio to proceed with the aforementioned actions if that meant Plaintiff would no longer be sexually abused by Tumminio, Tumminio then threatened to go public with their "relationship."

82. On another occasion, when Plaintiff was using a faculty bathroom with permission from another teacher to get dressed for a school competition, Tumminio entered the bathroom

backed Plaintiff into a stall, cornered him and proceeded to rub Plaintiff's penis. Tumminio then tried to kiss Plaintiff.

83. During this encounter, the teacher who gave Plaintiff permission to use the faculty bathroom entered, and saw Tumminio and Plaintiff together in the stall. At no time did that teacher question Tumminio's presence in the bathroom with Plaintiff.

84. Tumminio behaved in a blatant manner which should have caused other employees at the High School to question his behavior and motivation toward Plaintiff and other students those employees had a duty to protect.

85. Upon information and belief, Tumminio sexually abused other students who were entrusted to his care.

86. At no time during the forced sexual activity described herein did Plaintiff provide consent to engage in these acts with Tumminio.

87. At all times, the conducted alleged herein violated New York State's Penal Code.

88. As a direct result of the Defendants' employee Tumminio's conduct described herein, Plaintiff has suffered and will continue to suffer great pain of mind and body, severe and permanent emotional distress, and physical manifestations of emotional distress. Plaintiff was prevented from obtaining the full enjoyment of life; has incurred and will continue to incur expenses for medical and psychological treatment, therapy, and counseling; and has incurred and will continue to incur loss of income and/or loss of earning capacity. As a victim of sexual abuse, Plaintiff is unable at this time to fully describe all of the details of that abuse and the extent of the harm suffered as a result.

CAUSES OF ACTION

FIRST CAUSE OF ACTION
VICARIOUS LIABILITY IN RESPONDEAT SUPERIOR

89. Plaintiff repeats and re-alleges each and every allegation set forth in paragraphs “1” through “88” as if fully set forth herein.

90. Defendants herein were and are vicariously liable in *respondeat superior* to Plaintiff for Tumminio’s foregoing unlawful conduct in that said acts were reasonably foreseeable by the Defendants and occurred within the general scope of his employment.

91. Defendants herein were and are vicariously liable in *respondeat superior* to Plaintiff for Tumminio’s foregoing unlawful conduct for given prior instances of similar conduct of Tumminio and other employees, agents and/or servants, as well as Defendants’ failure to respond accordingly, such unlawful conduct was reasonably foreseeable, and occurred within the general scope of the Defendants’ business in that due to prior known instances of similar conduct on part of Tumminio, the herein actions of same could have been reasonably foreseen by the Defendants; and therefore, the Defendants assumed a relationship requiring it to be responsible for Plaintiff’s safety and protection.

92. As a result of the foregoing, Plaintiff has been caused to suffer and sustain severe and potentially permanent personal injuries, including severe injury and potentially permanent injury to his emotional and psychological well-being.

93. By reason of the foregoing the Defendants are liable to Plaintiff for compensatory damages and for punitive damages, together with interests and costs.

SECOND CAUSE OF ACTION
NEGLIGENCE IN HIRING, RETENTION AND SUPERVISION

94. Plaintiff repeats and re-alleges each and every allegation set forth in paragraphs “1” through “88” as if fully set forth herein.

95. Defendants negligently hired and/or retained its employee Tumminio, with knowledge of Tumminio’s propensity for the type of behavior which resulted in Plaintiff’s injuries in this action.

96. Defendants negligently placed its employee, Tumminio, in a position to cause foreseeable harm, which most probably would not have occurred had the employer taken reasonable care in the hiring of employees.

97. Defendants negligently hired and/or retained its employee, Tumminio, negligently placed its employee, Tumminio, in a position to cause foreseeable harm, which Plaintiff would not have been subjected to, had Defendants taken reasonable care in supervising or retaining the employee, Tumminio.

98. Defendants knew or should have known of its employee Tumminio’s propensity for the conduct that caused Plaintiff’s injuries.

99. Defendants negligently failed to properly train and/or supervise its employee Tumminio.

100. That as a result of the foregoing Plaintiff was seriously and permanently injured.

101. That said occurrence and the resulting injuries to Plaintiff were caused solely and wholly by reason of the negligence and carelessness of Defendants in the ownership, operation, management, maintenance, control, security and supervision of its employees.

102. That as a result of the foregoing, Plaintiff was injured solely and wholly as a result of the negligence, carelessness and recklessness of the Defendants and/or their agents, servants, employees, without any negligence on the part of the Plaintiff contributing thereto.

103. By reason of the foregoing, the respective Defendants are liable to Plaintiff for compensatory damages and for punitive damages, together with interests and costs.

THIRD CAUSE OF ACTION
INADEQUATE SECURITY

104. Plaintiff repeats and re-alleges each and every allegation set forth in paragraphs "1" through "88" as if fully set forth herein.

105. That Defendants negligently failed to provide adequate security to Plaintiff while Plaintiff was lawfully within the Premises.

106. That Defendants negligently failed to provide adequate security to Plaintiff while Plaintiff was lawfully within the Premises and while Defendant had knowledge of its employee Tumminio's propensity for the type of behavior which resulted in Plaintiff's injuries in this action.

107. That Defendants negligently failed to safeguard Plaintiff Pedro Comas, a minor.

108. That Defendants knew or should have known of its employee Tumminio's propensity for the conduct that caused Plaintiff's injuries and negligently failed to take reasonable measures to protect and provide security to the Plaintiff.

109. That as a result of the foregoing Plaintiff was seriously and permanently injured.

110. That said occurrence and the resulting injuries to Plaintiff were caused solely and wholly by reason of the negligence and carelessness of Defendants in the ownership, operation, management, maintenance, control, security and supervision of the Premises and employees within the Premises.

111. That as a result of the foregoing, Plaintiff was injured solely and wholly as a result of the negligence, carelessness and recklessness of the Defendants without any negligence on the part of the Plaintiff contributing thereto.

112. By reason of the foregoing, Defendants are liable to Plaintiff for compensatory damages and for punitive damages, together with interests and costs.

FOURTH CAUSE OF ACTION
NEGLIGENCE

113. Plaintiff repeats and re-alleges each and every allegation set forth in paragraphs "1" through "88" as if fully set forth herein.

114. During the time of the sexual abuse alleged herein, Defendants owned, operated, managed, maintained, controlled, secured and supervised the Premises and employees within the Premises.

115. During the time of the sexual abuse alleged herein, Defendants as the owners, operators, supervisors and managers of the Premises and the employees within the Premises had a duty to protect the Plaintiff from injury while the Plaintiff was lawfully within the Premises.

116. During the time of the sexual abuse alleged herein, Defendants while lawfully upon the Premises, Plaintiff was caused to be repeatedly injured solely and wholly due to the negligence and carelessness of the Defendants.

117. That solely and wholly by reason of the foregoing, Plaintiff was injured.

118. That said occurrence and the resulting injuries to Plaintiff were caused solely and wholly by reason of the negligence and carelessness of the Defendants in the ownership, operation, management, maintenance, control, security and supervision of the Premises and the employees within the Premises.

119. That as a result of the foregoing, Plaintiff was injured solely and wholly as a result of the negligence, carelessness and recklessness of the Defendants, without any negligence on the part of the plaintiff contributing thereto.

120. By reason of the foregoing, Defendants are liable to Plaintiff for compensatory damages and punitive damages, together with interests and costs.

FIFTH CAUSE OF ACTION
BREACH OF DUTY IN LOCO PARENTIS

121. Plaintiff repeats and re-alleges each and every allegation set forth in paragraphs “1” through “88” as if fully set forth herein.

122. While Plaintiff was a minor, Plaintiff was entrusted by his parents to the control and supervision of Defendants’ and their employee, Tumminio. During the times that Plaintiff was entrusted to Tumminio, Tumminio was under the supervision and control of Defendants. The respective Defendants owe – and owed – a duty to children entrusted to them to act in loco parentis and to prevent foreseeable injuries.

123. At all times material hereto, the respective Defendants’ actions were willful, wanton, malicious, reckless, negligent, grossly negligent and/or outrageous in their disregard for the rights and safety of Plaintiff.

124. As a direct result of the respective Defendants’ breach of duty, Plaintiff has suffered the injuries and damages described herein.

125. By reason of the foregoing, Defendants are liable to Plaintiff for compensatory damages and for punitive damages, together with interests and costs.

SIXTH CAUSE OF ACTION
BREACH OF FIDUCIARY DUTY

126. Plaintiff repeats and re-alleges each and every allegation set forth in paragraphs “1” through “88” as if fully set forth herein.

127. While Plaintiff was a minor, Plaintiff was entrusted by his parents to the control and supervision of Defendants and its employee, Tumminio. During the times that Plaintiff was entrusted to Tumminio, Tumminio was under the supervision and control of Defendants.

128. There exists a fiduciary relationship of trust, confidence, and reliance between Plaintiff and Defendants, this relationship is based on the entrustment of the Plaintiff while he was a minor child to the care and supervision of the Defendants and their employee, Tumminio. This entrustment of the Plaintiff to the care and supervision Defendants’ employee, Tumminio, while Plaintiff was a minor child, required the Defendant to assume a fiduciary relationship and to act in the best interests of the Plaintiff and protect Plaintiff due to infancy and vulnerability.

129. Pursuant to their fiduciary relationship, Defendants were entrusted with the well-being, care, and safety of Plaintiff.

130. Pursuant to their fiduciary relationship, Defendants assumed a duty to act in the best interests of Plaintiff.

131. Defendants breached their fiduciary duties to Plaintiff.

132. At all times material hereto, the respective Defendants’ actions were willful, wanton, malicious, reckless, negligent, grossly negligent and/or outrageous in their disregard for the rights and safety of Plaintiff.

133. As a direct result of the respective Defendants’ breach of fiduciary duty, Plaintiff has suffered the injuries and damages described herein.

134. By reason of the foregoing, the respective Defendants are liable to Plaintiff for compensatory damages and for punitive damages, together with interests and costs.

SEVENTH CAUSE OF ACTION
BREACH OF NON-DELEGABLE DUTY

135. Plaintiff repeats and re-alleges each and every allegation set forth in paragraphs “1” through “88” as if fully set forth herein.

136. While Plaintiff was a minor, Plaintiff was entrusted by his parents to the control and supervision of Defendants and their employee, Tumminio, for the purposes of, *inter alia*, providing Plaintiff with a safe environment in which to learn and grow. There existed a non-delegable duty of trust between Plaintiff and Defendants.

137. Defendants were in the best position to prevent Tumminio’s sexual abuse of Plaintiff, to learn of that sexual abuse of Plaintiff and stop it, and to take prompt steps to provide that Plaintiff received timely therapy to address the harm Plaintiff suffered resulting from Tumminio’s sexual abuse of Plaintiff. Such prompt steps would have mitigated the extent of lifetime suffering Plaintiff has had to endure.

138. By virtue of the fact that Plaintiff was sexually abused as a minor child entrusted to the care of the Defendants breached its non-delegable duty to Plaintiff.

139. At all material times hereto, Tumminio was under the supervision, employ, direction and/or control of Defendants.

140. As a direct result of the respective Defendants’ breach of non-delegable duty, Plaintiff has suffered the injuries and damages described herein.

141. By reason of the foregoing, the respective Defendants’ are liable to Plaintiff for compensatory damages and for punitive damages, together with interests and costs.

EIGHTH CAUSE OF ACTION
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

142. Plaintiff repeats and re-alleges each and every allegation set forth in paragraphs “1” through “88” as if fully set forth herein.

143. The Defendants herein engaged in reckless, extreme, and outrageous conduct by providing Tumminio with access to children, including Plaintiff, despite knowing that he would likely use his position to groom and sexually abuse them, including Plaintiff.

144. The Defendants’ misconduct was so shocking and outrageous that it exceeds the reasonable bounds of decency as measured by what the average member of the community would tolerate and demonstrates an utter disregard by them of the consequences that would follow.

145. As a result of this reckless, extreme, and outrageous conduct, Tumminio gained access to Plaintiff and sexually assaulted and abused him.

146. Defendants knew that this this reckless, extreme, and outrageous conduct would inflict severe emotional and psychological distress, including personal physical injury, on others, and Plaintiff did in fact suffer severe emotional and psychological distress and personal physical injury as a result, including severe mental anguish, humiliation and emotional physical distress.

147. By reason of the foregoing, Defendant is are liable to Plaintiff for compensatory damages and for punitive damages, together with interests and costs.

NINTH CAUSE OF ACTION
VICARIOUS LIABILITY PREMISED UPON APPARENT AUTHORITY

148. Plaintiff repeats and re-alleges each and every allegation set forth in paragraphs “1” through “88” as if fully set forth herein.

149. Defendants were and are vicariously liable to the Plaintiff premises upon apparent authority in that the Defendants created an appearance of authority on the part of Tumminio upon which, the Plaintiff reasonably relief, thereby enabling Tumminio to successfully perpetrate misconduct against the Plaintiff.

150. As a result of the foregoing the Plaintiff has been caused to suffer and sustain severe and potentially permanent personal injuries, including severe injury and potentially permanent injury to his emotional and psychological well-being.

151. By reason of the foregoing, Defendants are liable to Plaintiff for compensatory damages and for punitive damages, together with interests and costs.

WHEREFORE, Plaintiff, demands judgment against the respective Defendants on each cause of action as follows:

- A. Awarding compensatory damages in an amount to be provide at trial, but in any event in an amount that exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction; extent permitted by law;
- B. Awarding punitive damages to the extent permitted by law;
- C. Awarding costs and fees of this action, including attorneys' fees to the extent permitted by law;
- D. Awarding prejudgment interest to the extent permitted by law;
- E. Awarding such other and further relief as to this Court may seem just and proper.


JURY DEMAND

Plaintiff demands a trial by jury on all issues so triable.

Dated: New York, New York
September 27, 2019

Respectfully Submitted,

HACH ROSE SCHIRIPPA & CHEVERIE, LLP


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Attorneys for Plaintiff PEDRO COMAS

VERIFICATION

1. I, Pedro Comas, am the Plaintiff named in the instant action.
2. I have authorized the filing of this Verified Complaint (the "Complaint").
3. I have reviewed the allegations made in the Complaint, and to those allegations to which I have personal knowledge, I declare those allegations are true and correct. As to the allegations to which I do not have personal knowledge, I rely on the investigations conducted by my counsel, and for that reason believe those allegations to be true to the best of my knowledge, information, and belief.

I declare under the penalty of perjury that the foregoing is true and correct.

Dated: 9/27/2019, 2019


Pedro Comas


ZOELI FERNANDEZ
NOTARY PUBLIC-STATE OF NEW YORK
No. 01FE6388253
Qualified in Kings County
My Commission Expires 03-04-2023